

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

IN RE SYNGENTA MASS TORT ACTIONS

----- **Judge David R. Herndon**

This Document Relates to:

Poletti et al. v. Syngenta AG et al. No. 3:15-cv-01221-DRH

ORDER

This matter is before the Court on Syngenta's Motion Dismiss Plaintiffs That Did Not Produce a Plaintiff Fact Sheet (Doc. 155). The plaintiffs have responded (Doc. 161) and Syngenta has replied (Doc. 167). Based on the record and the following, Court ORDERS as follows:

On June 16, 2016, the Court issued a Revised Scheduling and Discovery Order requiring plaintiffs to timely submit a complete PFS on or before July 1, 2016 (Doc. 143). The order further provided as follows:

[P]laintiffs who fail to submit completed Plaintiff Fact Sheets on or before July 1, 2016 will be dismissed without prejudice upon motion, with leave to reinstate the case on or before September 1, 2016. Plaintiffs who fail to reinstate the case by September 1, 2016 and wish to proceed will have to file a new case.

(Doc. 143). On August 12, 2016, Syngenta filed a motion to dismiss those plaintiffs who failed to serve a PFS by the July 1 deadline (Doc. 155).

Subsequently, a Second Revised Scheduling and Discovery Order was entered (as proposed by the parties) (Doc. 159). The Second Revised Scheduling and Discovery Order recognized that the parties were experiencing more problems than originally expected in completing PFS submissions and revised a number of deadlines. As a result of this Court's modification of its Scheduling Order (Doc. 159), no Plaintiffs have, to date, had their case dismissed.

In accord with the Second Revised Scheduling and Discovery Order, the plaintiffs filed a responsive pleading on September 15, 2016 (Doc. 161). Plaintiffs' response attaches a list of plaintiffs who, as of September 1, 2016, have submitted a PFS (Doc. 161-1). Syngenta has replied (Doc. 167). Syngenta states that it has reviewed the plaintiffs' entire production of PFSs, including the September 1 production, and has provided the Court with a final list of the plaintiffs who, as of September 1, 2016, have not served a PFS (Doc. 167-1). Syngenta now seeks dismissal of the plaintiffs identified in this list (Doc. 167-1).

The Court **ORDERS** as follows:

The plaintiffs who served a PFS as of September 1, 2016 (identified in Doc. 161-1) will not have their cases dismissed at this time. To the extent that any of these PFSs are deficient, those deficiencies will be addressed in accord with the Court's Deficiency Order (Doc. 166).

The plaintiffs who did not serve a PFS on or before September 1, 2016 are subject to dismissal. It is the Court's understanding that Exhibit A to Syngenta's reply (Doc. 167-1) identifies those plaintiffs who, as of September 1, 2016, had not submitted a PFS. Accordingly, **the plaintiffs identified in Exhibit A to Syngenta's reply (Doc. 167-1) are hereby DISMISSED without prejudice, with leave to reinstate if the PFS is served on or before November 15, 2016.**

Although the claims of the plaintiffs identified in Doc. 167-1 are hereby dismissed without prejudice, the **Court DIRECTS the Clerk of the Court to refrain from terminating these plaintiffs from the docket at this time.** Instead, on November 16, 2016, the parties are **DIRECTED** to file an updated list with the Court ("November 16, 2016 List") identifying those plaintiffs who, as of November 15, 2016, have not served a PFS. At that time, the Court will direct the Clerk of the Court to terminate the plaintiffs identified in the November 16, 2016 List from the docket. Further, the order of dismissal for those plaintiffs not identified in the

November 16, 2016 List (*i.e.* those plaintiffs who serve a PFS on or before November 15, 2016) will be vacated.

IT IS SO ORDERED.

Signed this 5th day of October, 2016.

 Digitally signed by
Judge David R. Herndon
Date: 2016.10.05
14:32:04 -05'00'



United States District Judge